

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DR. PANKAJ MERCHIA, M.D., Plaintiff

v. 4:20-cv-40100-IT

MARCUS & MILLICHAP, INC. et al., Defendants

MOTION FOR LEAVE TO FILE WITH INCLUDED
PLAINTIFF'S REQUEST FOR CLARIFICATION TO CONSERVE JUDICIAL RESOURCES
(AND, IF NECESSARY, AN INDICATIVE RULING) REGARDING ECF Nos. 134 & 180

Dear Judge Talwani,

In the interests of justice and conservation of judicial resources, please accept for filing this request.

I, Plaintiff, Dr. Pankaj Merchia, a medical doctor, not a lawyer, proceeding pro se, in the interests of conserving judicial resources, respectfully ask you to please clarify two rulings that you made so that I may accordingly withdraw any appeals which I have taken that you have characterized as "not taken in good faith".

1. Memorandum & Order dated 03/02/2023 (ECF 134).

The Court dismissed all claims against Marcus & Millichap ("M&M") because, *"after M&M sent the counter-offer to Merchia on September 30, 2020, M&M had no further involvement and took no further action ..."*.

2. Electronic Order dated 06/26/2025 (ECF 180).

In denying leave to appeal in forma pauperis, the Court certified that Plaintiff's further appeals *"are not taken in good faith."*

Respectfully, I cannot reconcile either statement with undisputed record evidence, most notably:

- **October 9 2020 e-mail chain (Exhibit 110 in ECF 128-5 of my Opposition to Defendants Motions to Dismiss).**

Nine days *after* the September 30 offer and two days *after* Plaintiff wired the full \$400,000 purchase price, M&M agent Harrison Klein wrote: “*Once this [lease] is signed we are good to give you keys.*” and had attached a lease Attorney Lamb wrote that (a) postponed closing and (b) shifted deed-recording costs to Plaintiff, exactly as Defendant Krug foretold on 10/01/2020 at 11:17 a.m.

- **Krug–Klein–Lamb 10/01/2020 e-mail memorializing their scheme (Exhibit 103 in ECF 119 of my Second Amended Complaint “SAC”).**

Krug wrote that, after receiving Plaintiff’s money, M&M/Lamb would “*follow up with an email explaining the extra costs of closing [recording the deed] etc. We are likewise not discussing the key question.*” Lamb simultaneously confirmed wire instructions and then replied to Krug and Klein that he would let them know once he received payment. M&M’s Klein replied: “*Sounds good, let’s see what happens.*”.

These documents—cited in the Second Amended Complaint (¶¶ 20-44) and in Plaintiff’s opposition to Defendants’ motions to dismiss (ECF 128-5)—demonstrate post-September 30 conduct by M&M that contradicts the Court’s predicate finding of “no further involvement.” Likewise, they undercut any suggestion that Plaintiff’s pursuit of relief is “not taken in good faith”

RELIEF REQUESTED

Pursuant to Fed. R. Civ. P. 60(b)(1) & (6) and, because the matter is on appeal,

Fed. R. Civ. P. 62.1, Plaintiff respectfully asks that the Court:

1. **Clarify** whether, in light of Exhibits 103 & 110, the statement that “M&M had no further involvement ... after September 30 2020” (ECF 134 at 11, 15) remains accurate; and
2. **State, indicatively**, whether the Court would amend or reconsider the certification of bad-faith under 28 U.S.C. § 1915(a)(3) (ECF 180) were the Court of Appeals to remand for that purpose.

Should the District Court confirm that its factual findings are correct notwithstanding the above e-mails and explains in simple English that Plaintiff can understand the basis for its decision, Plaintiff will promptly withdraw the appeals he just noted to conserve judicial resources.

LOCAL RULE 7.1 CERTIFICATION

As a pro se litigant currently enjoined from direct contact with counsel without leave of court, Plaintiff has been unable to confer under L.R. 7.1(a)(2).

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant leave to file and issue the requested clarification and indicative ruling, or such other relief as justice may require.

Respectfully submitted,
/s/ Pankaj Merchia, M.D.
Pankaj Merchia, M.D. (pro se)
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CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing motion was filed through the Court’s CM/ECF system, which will send notice to all registered participants.

/s/ Pankaj Merchia, M.D.